

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHARON JOYNER, Individually and
on behalf of all others similarly situated

Index No. 1:22-cv-2226-VSB

Plaintiff,

MOTION TO DISMISS

-against-

APPAMAN INC.,

Defendant.

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Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), Defendant Appaman Inc. (“Appaman”) submits this motion to dismiss Plaintiff’s Complaint.

Plaintiff has failed to adequately plead entitlement to relief on her purported claim against Appaman for violating the Americans with Disabilities Act (“ADA”) to allow this Court to have jurisdiction to hear this suit. Because Plaintiff failed to properly plead the required elements, including sustaining an injury-in-fact, Plaintiff lacks Article III standing. Additionally, Plaintiff fails to state an ADA claim, plausible on its face, on which relief may be granted. For these same reasons, Plaintiff’s New York City Human Rights Law claim also fails.

For these reasons and those set forth in the attached memorandum of points and authorities, incorporated by reference, Appaman respectfully requests that the Court dismiss Plaintiff’s Complaint with prejudice.

Dated: White Plains, New York
June 20, 2022

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: /s/ Gregg A. Tatarka

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Counsel for Appaman Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of Defendant Appaman's Motion to Dismiss was served on all counsel of record via ECF this 20th day of June 2022.

/s/ Gregg A. Tatarka

Gregg A. Tatarka, Esq.